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62-2567

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Law of Outer Space

1. This memorandum is for information only.

2. A representative of this office attended a meeting on 19 April 1962 at the Department of State with Mr. John J. McCloy in preparation for his speech in England on 13 May 1962. State and NASA were represented but not the Department of Defense.

3. There was general agreement on the concept of freedom of outer space for all nations, including use of satellites for non-aggressive purposes. Mr. McCloy plans to stress that the free world has no fear of surveillance and it is only the closed states of the Soviet Bloc which have to fear weather or other photography. We are stressing the fact that registration of satellites with the United Nations is in no way a limitation on the freedom of space any more than certain rules and conventions on registration of shipping would be to freedom of the seas. We are looking to see if we can find any useful material on this that Mr. McCloy can use. NASA and State, particularly the former, were critical of Defense's policy of secrecy of satellite launching and particularly of the failure to release the photographic product. This is a political approach and we believe Mr. McCloy understands that classification of techniques and product is not inconsistent with freedom of space any more than protection of the techniques and product of the maritime SIGINT operations is inconsistent with freedom of the seas. We have recommended that Mr. McCloy concern himself only with broad concepts and not get into such contentious details as where outer space begins or the other more legalistic quibbles.

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EXECUTIVE REGISTRY FILE

State Dept. review completed

LAWRENCE R. HOUSTON
General Counsel

OUTLINE FOR REMARKS TO BE MADE BY

MR. McCLOY

AT THE MEETING OF THE EUROPEAN-AMERICAN ASSEMBLY

A. Introduction

1. Refer to breadth and relevance of agenda for the meeting.
2. No intention in these remarks to suggest specific answers to problems on the agenda. Rather, from the viewpoint of political and legal implications, to offer certain suggestions as to impact of the exploration of outer space upon national policy objectives and the conduct of international relations, particularly with respect to the Atlantic Community.
3. A sizable body of doctrine already exists concerning outer space activities. Propose to share personal views based on an examination of political and legal aspects of that doctrine.

B. Self-Evident Propositions (whole truths) -- This doctrine embodies certain self-evident propositions which need merely to be noted here, i.e.:

4. The exploration of outer space is a major challenge in the expansion of human knowledge and the organization of human effort.

5. It can bring immense benefits to mankind; technical, industrial, economic and social -- both directly and as a bi-product.

6. We have no choice but to undertake this task. In a positive sense the opportunities are manifest. In a negative sense free men must master this new environment as a matter of prudence and security.

7. This task offers a unique opportunity to apply and extend the best elements of our prior experience in international cooperation and in the development of the regime of law.

8. The scope of the task is such as to require a national or international effort.

C. Questionable Propositions (half truths)

9. Certain further propositions have gained currency, but upon examination seem less certain, if not incorrect. In simplest terms they may be expressed as follows:

a. That space itself is non-political. Its exploration is essentially a matter of scientific investigation, science itself being international in character and largely non-political. Hence, it may be possible that human activities in

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outer space will have a far lower political coefficient than human activities on earth.

b. That there is in the exploration of outer space an opportunity to make a fresh start in our international relations. If this is successful it may follow that political differences on earth will be significantly alleviated.

c. That there is a clear and simple distinction between peaceful uses of outer space on one hand and military uses on the other, and that the exploration of outer space, if it is truly to accommodate the aspirations of mankind, must be divested of all military implications.

D. Appraisal of these Questionable Propositions

10. Outer space itself is of course non-political. What is involved here, however, is not outer space itself, but human activities in space. These activities will be organized by nations and will from the outset be encumbered with all the existing, competing considerations of national interest and security. It is not likely that they will have a lower political coefficient.

11. Outer space activities constitute a new tributary to the main stream of man's inter-relationships, a new dimension in the total spectrum of our problems on earth. They are not

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separable from other human activities. The fresh start amounts to a choice whether the world proceeds on the basis of its most constructive, or less fortunate, experience in the conduct of human affairs.

12. The world is much preoccupied with the hope that the arms race on earth can in some way be avoided in space. It is easy to leap to the simple conclusion that military activities in outer space should be prohibited per se. The problem is to make a clear distinction between those activities in outer space which are acceptable and those which may reasonably be construed to constitute a threat to the security of nations. Clearly, such a distinction does not lie between military and non-military activities as such. Rather, it must be made on an assessment of the purport and conduct of the activities themselves. The activities in outer space we now conduct under military auspices are peaceful and non-aggressive in character.

E. Conclusions, in the light of the legal and political implications of these propositions

13. The burden of the self-evident propositions is that the conduct of outer space activities has already become a

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central problem. A large measure of human and financial resources is already committed. That commitment increasingly engages the separate national interests of the countries involved.

14. What emerges from an assessment of the questionable propositions is really a set of challenges (a) that activities in outer space are but another step -- another opportunity -- in the continuing evolution of an orderly international framework for national objectives and (b) that the free world, particularly the Atlantic Community with its tradition of the rule of law, has a responsibility to take the lead in seeking this framework (reference the remarks made by Stevenson and Plimpton in the UN General Assembly and Outer Space Committee).

15. The problems of outer space are inseparable from the problems of international security, disarmament, economic cooperation and political development. Goals in outer space are a reflection of goals on earth.

16. It follows that free world objectives in outer space should be:

a. Outer space should be free for use by all nations so long as that use is consistent with the principles of the

UN Charter.

b. The regime of law among nations on earth must be extended and improved as it pertains to outer space.

c. Activities in outer space must be conducted in an open and orderly manner.

d. There must be devised a clear and recognized means for the identification of rights and the adjudication of disputes as between nations conducting activities in outer space (e.g.: assistance in the rescue and return of astronauts who land unexpectedly in foreign territory and the determination of liability for injuries or damage caused by objects returning from outer space).

e. Useful applications of space technology (e.g.: communication satellites and meteorological satellites) should be available to all nations, particularly the less-developed nations, commensurate with a realistic assessment of their needs and their ability to commit their resources to the use of these applications.

f. Opportunities to participate in outer space activities should be open to all nations commensurate with their ability and willingness to cooperate constructively.

17. These objectives have been recognized clearly by our various countries. For example:

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a. The United States has joined in sponsoring in the United Nations, and the United Nations has adopted, a resolution which embodies many of these principles. (reference pertinent sections of the UN resolution on outer space)

b. The West has proposed as part of its disarmament proposals that, under adequate inspection and control, the placing in orbit of weapons of mass destruction be prohibited.

c. The United States has undertaken, as a task of the National Aeronautics and Space Administration, a comprehensive program for international cooperation in space activities.

d. Within its over-all space program, the United States allocates and coordinates the efforts of NASA and the Department of Defense so that each undertakes those aspects of the total national program which are most suited to its needs and capabilities. Both the NASA program and the Defense Department program involve significant scientific experimentation; each produces launch vehicles for use in the national inventory of rockets; and both contribute to the development of practical applications of space technology (e.g.: the communication and meteorological satellite programs of NASA and the navigational and communication satellite programs of the Defense Department). Neither effort is

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engaged in programs which are aggressive in character; both programs are consistent with the objectives which I have suggested above.

18. In terms of those objectives the Atlantic Community has a new and special responsibility.

a. The problems of space exploration are complex. The resources and skills required for their solution are enormous. Together the nations of the Atlantic Community have the experience and means to undertake these tasks.

b. The aspirations of the free world are reflected in the common traditions and mutual objectives of the Atlantic Community. They will be realized only through performance. By the virtue of its corporate experience in political and industrial enterprise the Atlantic Community is equipped to undertake these tasks with the realism and sense of responsibility required to achieve these objectives in outer space.

c. We welcome the European determination and capability to assemble and organize the resources to be about these tasks, as evidenced by the creation of the European Launcher Development Organization (ELDO) and the European Space Research Organization (ESRO).

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19. The opportunities to achieve these objectives in the exploration of outer space are too challenging to be neglected; the alternatives unacceptable.

S/AE:RFPackard/cc/4/19/62

MEMORANDUM FOR: THE DIRECTOR

The memorandum attached describes
the preliminary meeting with Mr. McCloy to
discuss his 13 May speech on outer space.

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LAWRENCE R. HOUSTON
General Counsel

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23 April 1962
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